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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and for the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES, LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and the Estate
of Bernard L. Madoff,

Plaintiff,

v.

LEWIS ALPERN and JANE ALPERN.,

Defendants.

Adv. Pro. No. 10-04308 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL OF
ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and defendants Lewis Alpern and Jane Alpern (collectively, “Defendants”), by and through their counsel, Klestadt Winters Jureller Southard & Stevens, LLP (collectively, the “Parties), hereby stipulate and agree to the following:

1. On November 30, 2010, the Trustee filed and served the Amended Complaint in which the Defendants were named as defendants.
2. On April 17, 2014, Defendants filed and served an answer on the Trustee.
3. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181], the Parties entered into a Settlement Agreement and Release on November 15, 2016 (“Settlement Agreement”).
4. In accordance with Federal Rule of Bankruptcy Procedure 7041, and Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissal of the adversary proceeding without prejudice, without costs to either Trustee or Defendants, and subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding or to seek entry of judgment pursuant to the Stipulation for Entry of Judgment in the event of an uncured default under the terms of the Settlement Agreement, Mortgage or Promissory Note. Upon the Trustee’s receipt of the full Settlement Amount as set forth in the Settlement Agreement, and provided there is no default under the Settlement Agreement, this

dismissal shall be deemed with prejudice.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

7. The Bankruptcy Court shall retain jurisdiction over this Stipulation.

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Dated: December 16, 2016
New York, New York

Of Counsel:

BAKER & HOSTETLER LLP

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Attorneys for Defendants

SO ORDERED

Dated: December 16, 2016
New York, New York

/s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE